

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0162P
Gross Income Tax
For Calendar Year 2001

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

STATEMENT OF FACTS

Taxpayer was assessed a penalty for failing to remit its tax by the due date of the return. Taxpayer protested the proposed penalty assessment in a letter dated April 7, 2003.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it satisfied the conditions under IC 6-8.1-10-2.1(e). Taxpayer believes it also satisfied the more complicated test that at least 90% of the tax reasonably expected to be due was paid by the original due date. Taxpayer states that it is a partner in a partnership that generated losses since inception. Additionally, gross receipts earned by the partnership are interstate receipts not subject to the Indiana Gross Receipts Tax. However, the partnership sold some of its assets, which were located in Indiana, the sale of which was an unusual, nonrecurring event. Taxpayer states it was not aware of any unusual transaction that had occurred during the year until the K-1 from the partnership was received.

Taxpayer failed to remit its tax by the due date of the return. One hundred percent (100%) of the tax was paid on October 1, 2002, which is clearly late.

Taxpayer should have made itself aware of the tax consequences by the due date of the return. Taxpayer has not provided reasonable cause to allow a penalty waiver.

FINDING

Taxpayer's protest is denied.